

OGC HAS REVIEWED.

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LS 5: 24/55  
16 Nov.

16 November 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Functions of the Commission of Fine Arts

1. In response to the request of [redacted] this Office has consulted the statutes creating and establishing the duties of the Commission of Fine Arts.

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2. The basic statutory authority for the existence and functions of the Commission is 40 U.S. Code Sec. 104 which provides:

"A permanent Commission of Fine Arts is created to be composed of seven well-qualified judges of the fine arts, who shall be appointed by the President, and shall serve for a period of four years each, and until their successors are appointed and qualified. The President shall have authority to fill all vacancies. It shall be the duty of such commission to advise upon the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia, and upon the selection of models for statues, fountains, and monuments erected under the authority of the United States and upon the selection of artists for the execution of the same. It shall be the duty of the officers charged by law to determine such questions in each case to call for such advice. The foregoing provisions of this section shall not apply to the Capitol Building of the United States and the building of the Library of Congress. The commission shall also advise generally upon questions of art when required to do so by the President, or by any committee of either House of Congress. Said commission shall have a secretary and such other assistance as the commission may authorize, and the members of the commission shall each be paid actual expenses in going to and returning from Washington to attend the meetings of said commission and while attending the same."

3. It will be noted from the foregoing that the functions of the Commission are primarily within the District of Columbia. By other specific statutes the Commission has been given some jurisdiction outside the District, as in the case of Battlefield Memorials, The Arlington Memorial Amphitheatre, and the Theodore Roosevelt Memorial.

4. The only statutory connection of the Commission of Fine Arts with the National Capital Park and Planning Commission is stated in 40 U.S. Code Sec. 72. That statute authorizes the NCPC to acquire lands in the District and adjacent areas of Maryland and Virginia for development of

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the National Capital park, parkway, and playground system. The only mention of the Commission of Fine Arts is in the following sentence "In the selection of lands to be acquired the advice of the Commission of Fine Arts shall be requested."

5. We conclude that there is no requirement that we request any comment or approval from the Commission of Fine Arts on the proposed CIA building, although it should be noted that the President or any Congressional committee can request their advice upon "questions of art". In addition, it is possible, although we are not aware of any such practice that the NCPC might wish to get the advice of the Commission of Fine Arts and should the NCPC so desire it would be politic for us to acquiesce.

  
Office of General Counsel

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Distribution:

1 - Mr. Chandler

✓ 1 - Signer

2 - OGC *chms*

*subject - Bldg & grounds*

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